

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOHN RUSSOPOULUS, 97-A-1208,

Plaintiff,

-vs-

DECLARATION OF MICHAEL A.
SIRAGUSA IN SUPPORT OF
DEFENDANTS' MOTION TO MODIFY
THE SCHEDULING ORDER

03-CV-0249 Sc

Correction Officer CATER, Correction
Officer RYDZA, Correction Officer
LEWALSKI, Correction Officer
JOHNSON, and Sergeant JOHN DOE,

Defendants.

MICHAEL A. SIRAGUSA, declares under penalty of perjury,
pursuant to 28 U.S.C. §1746, that the following is true and
correct:

1. I am an Assistant Attorney General, of counsel to Eliot
Spitzer, Attorney General of the State of New York, attorney for
defendants Cater, Rydza, Lewalski, and Johnson ("defendants").

2. This Affidavit is submitted in support of Defendants'
Motion to Modify the Scheduling Order.

3. The current Scheduling Order (Dkt. #49) set forth a
deadline for the filing of motions to amend the pleadings of
January 21, 2005, a discovery deadline of May 21, 2005, and
dispositive motion deadline of August 22, 2005.

4. Plaintiff filed a motion to amend his complaint on
January 25, 2005 (Dkt. #50 & 51), and defendants opposed said
motion (Dkt. #53).

5. This Honorable Court granted plaintiff's motion to amend, in part, and permitted plaintiff to file his amended complaint (Dkt. #55).

6. Plaintiff's original complaint (Dkt. #1) alleged that the four original defendants (Cater, Rydza, Lewalski, and Johnson) failed to protect him from other inmates in violation of the Eighth Amendment.

7. Plaintiff's Amended Complaint (Dkt. #58) now adds eight (8) additional defendants and an unspecified number of John Doe defendants, and sets forth new causes of action (i.e. excessive force, retaliation, due process).

8. Summonses were just recently issued as to the newly identified defendants and they have yet to be served (See Dkt. Entry of July 22, 2005).

9. In light of the addition of the eight (8) newly named defendants and the three (3) additional causes of action set forth in this case, it is the defendants position that a new scheduling order must be entered extending the current deadlines imposed by the previous scheduling order.

10. In light of the amended complaint being filed, defendants will need additional time to seek discovery concerning the newly added causes of action, to investigate plaintiff's claims, to file dispositive motions, etc.

11. Defendants believe that it may be in the interest of judicial economy for this Honorable Court to set a date for a scheduling conference to modify the existing Scheduling Order.

12. No prejudice will result to the plaintiff by the modification of the existing Scheduling Order.

DATED: August 22, 2005

s/ Michael A. Siragusa
MICHAEL A. SIRAGUSA
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of Counsel
Attorney for Defendants
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Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2005, I electronically filed the foregoing with the Clerk of the District Court using its CM/ECF system.

And, I hereby certify that on August 22, 2005, I mailed the foregoing, by the United States Postal Service, to the following non-CM/ECF participant:

William A. Gerard, Esquire
71 Woods Road
P.O. Box 717
Palisades, New York 10964

Dated: August 22, 2005

ELIOT SPITZER
Attorney General of the
State of New York
Attorney for Defendants
BY:
s/ Michael A. Siragusa
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